

JUAN S. BARROZO, PLAINTIFF AND APPELLANT, VS. MARCELINO T. MACARAEG ET AL, DEFENDANTS AND APPELLEES.

G.R. No. L-1282. April 25, 1949

Ponente: BENGZON, J.

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BENGZON, J.:

The plaintiff Juan S. Barrozo, whose properties were sold on execution in pre-war days desires to repurchase them even after the lapse of the one-year period specified by law, insisting that the advent of the last war suspended or extended that period. Such in a nutshell is the gist of this litigation which was submitted for decision to the court of first instance of Pangasinan, upon a stipulation of facts reading partly as follows:

"1. That the plaintiff used to be the owner of the parcels of land described in * * * the complaint.

"2. That on or about January 23, 1941, a complaint was filed by Tableria B and S against Juan S. Barrozo (civil case No. 438 of the justice of the peace court of Mangaldan) to recover the amount of P446.41 plus costs; * * *

"3. That decision was rendered in Civil Case No. 438 aforesaid sentencing Juan S. Barrozo to pay P446.41 with 12 per cent interest, costs and attorney's fees; * * *.

"4. That execution was issued by the J.P. of Mangaldan and the provincial sheriff of Pangasinan levied on the properties described in the complaint * * *.

"5. That pursuant to the levy and notice of sale at public auction (Exhibit C), the provincial sheriff of Pangasinan sold the properties levied upon, at public auction on April 28, 1941, to Jose B. Biagtan as the highest bidder;

"6. That on August 21, 1942, the provincial Sheriff executed a deed of final sale of the said properties in favor of Jose S. Biagtan, copy of th said deed is hereto attached as Exhibit E and made a part hereof;

"7. That Jose S. Biagtan sold and transferred, all his rights, title and interests, over all of the properties described in Exhibit E in favor of the defendant spouses Marcelino T. Macaraeg and Asuncion V. Sison-Macaraeg on November 21, 1942;

"8. That the eight parcels of land levied upon and sold at public auction were mortgaged by the plaintiff Juan S. Barrozo on February 15, 1940 to the Agricultural & Industrial Bank for P1,400 payable under the terms and conditions stipulated in the deed of mortgage and the promissory note which are marked respectively as Exhibits "G" and "G-1" and made parts hereof;

"9. That the defendant spouses paid the mortgage credit and interests to the Agricultural and Industrial Bank on February 26, 1943 in the amount of P1,646.51 under Receipt No. 73043 which is attached hereto and marked as Exhibit H;"

* * * * *

"12. That the possession of the properties situated in Mangatarem, Pangasinan, were delivered to the defendant

spouses on November 25, 1942 by the provincial sheriff;"

It will be observed that as the realties of plaintiff had been sold on April 28, 1941 the redemption term should have expired in regular course on April 28, 1942. Now then, what effect did the war have upon such term? The trial judge, Hon. Eugenio Angeles, held that the Japanese occupation did not suspend the redemptory rights of the plaintiff, who should have tried to repurchase on time. His Honor also held that after the Japanese occupation, the courts of Pangasinan began to function regularly in May 1942, and therefore even if the, intervening period of confusion caused by the invasion should be deducted (January to May 1942), still plaintiff was late because he moved to repurchase by filing, this complaint only in February 1943.

Appellant claims, the lower court erred in not relieving him from his failure to redeem by reason of the difficulties occasioned by the war, citing authorities upholding the discretionary power of courts of equity to permit redemption after the Statutory period has expired. However, under the circumstances disclosed, we fail to see how to impute abuse, of discretion to the trial judge whose knowledge of local conditions must be reckoned with in the matter of facilities of the judgment debtor to repurchase, or the lack thereof. And supposing that fairly normal conditions in the province were restored only in May 1942, His Honor was entirely right in declaring the plaintiff had "slept too long." Remember that from May 1942 to February 1943 the periods for soliciting relief under Rule 38 on the ground of equitable circumstances have elapsed.

In this connection the appellant argues that he had exerted every effort to redeem as early as December 1942, "as is admitted by defendants' answer." This argument is adequately met by appellees, who point out that although appellant talked about repurchase in December 1942, he merely requested for an extension of time within which to make it without tendering payment of the redemption price.

It is quite probable that because of the conflagration plaintiff found it difficult to get the necessary money. But it should be clear that financial hardship is no excuse for non-redemption, in the same manner as shortage of funds does not prevent a sale on execution.

Another point raised by appellant is that the price paid at the auction sale was so inadequate as to shock the conscience of the court. Supposing that this issue is open even after the one-year period has expired and after the properties have passed into the hands of third persons who may have paid a price higher than the auction sale money, the first thing to consider is that the stipulation contains no statement of the reasonable value of the properties; and although defendant's answer avers that the assessed value was P3,960 it also avers that their real market value was P2,000 only. Anyway, mere inadequacy of price—which was the complaint's allegation—is not sufficient ground to annul the sale. It is only where such inadequacy shocks the conscience that the courts will intervene (*Warner Barnes & Co. vs. Santos* 14 Phil., 446; *National Bank vs. Gonzales*, 45 Phil., 693; *Jalandoni vs. Ledesma*, 64 Phil., 1058). Another consideration is that the assessed value being P3,960 and the purchase price being in effect P1,864 (P464 sale price plus P1,400 mortgage lien which had to be discharged) the conscience is not shocked upon examining the prices paid in the sales in *National Bank vs. Gonzales*, 45 Phil., 693[1] and *Guerrero vs. Guerrero*, 57 Phil; 445,[2] sales which were left undisturbed by this Court.

Furthermore, where there is the right to redeem—as in this case—inadequacy of price should not be material, because the judgment debtor may re-acquire the property or else sell his right to redeem and thus recover any, loss he claims to have suffered by reason of the price obtained at the execution sale.

The third, point raised in this appeal is that "the lower court erred in not holding that under the debt moratorium proclaimed in Executive Order No. 32 the payment in forced sales of the redemption money was suspended." But the debt moratorium merely prohibited the enforcement by act ion of the debts' therein included; and in this case no one is attempting to force anybody to pay his debt. The judgment debtor whose property has been sold is not in

debt for the redemption money. He could not be required by action to redeem. Hence, he is not entitled to invoke the suspension. At any rate the moratorium, even if applicable to the right to repurchase would not logically have the effect of reviving a period that had expired long before its promulgation.

Wherefore, finding no substantial error in the appealed decision dismissing plaintiff's complaint, we hereby affirm it, with costs.

Moran, C.J., Paras, Feria, Pablo, Perfecto, Tuason, Montemayor, and Reyes, JJ., concur.

[1] Property assessed at P45,900 sold for P15,000.

[2] Property assessed at P8,505 sold for P3,463.

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